UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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BIGU HAIDER, VIYAJ SHANTI, INDERJEET   :
PARMAR, DIOGENES CARRASCO, TIMOTHY   :   **SUMMARY ORDER DENYING**
CAVARETTA, CHERNO JALLOW, and,   :   **MOTION TO CERTIFY CLASS**
Individually, on Behalf of All Others Similarly   :
Situated, and as Class Representatives,   :   16 Civ. 4098 (AKH)
                                           :
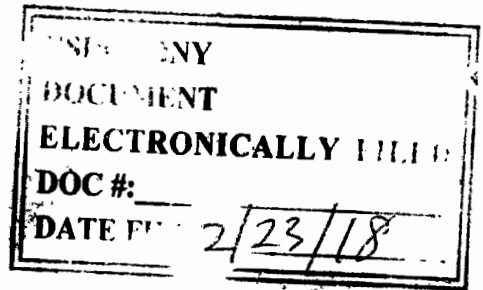   Plaintiffs,   :
      -against-   :
                                           :
UBER TECHNOLOGIES, INC., et al.,

                        Defendants.

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ALVIN K. HELLERSTEIN, U.S.D.J.:

     On February 22, 2018, I held oral argument on Plaintiffs' motion for conditional

certification and court-authorized notice pursuant to 29 U.S.C. § 216(b). *See* Dkt. No. 79. For the

reasons stated on the record, Plaintiffs' motion is denied. The circumstances of the putative class

members vary too greatly to, in determining whether an employer-employee relationship exists,

properly apply, on a class-wide basis, the five-step "economic reality" test identified in *United*

States v. Silk, 331 U.S. 704 (1947), and applied in our Circuit, *see Saleem v. Corp.*

Transportation Grp., Ltd., 854 F.3d 131 (2d Cir. 2017).

     Plaintiffs shall proceed with discovery and appear for a status conference on March 16,

2018, 10:00 A.M., and be prepared to discuss an initial discovery plan. Plaintiffs may, upon

further discovery and at the appropriate time, move for conditional certification of a class whose

members are sufficiently similar for class-wide resolution.

The Clerk shall terminate the motion.

SO ORDERED.

Dated: Feb 2 2018
           New York, New York

ALVIN K. HELLERSTEIN
United States District Judge